THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.26561 of 2005

Date:13.12.2005

M/s. SHAR CABLE TV

--------PETITIONERS

The Controller, Satish Dhawan Space Center, SHAR, Sriharikota, Nellore District and others.

---------RESPONDENTS

ORDER:

The petitioner had an agreement with the 3rd respondent for providing cable network in the colony at Satish Dhawan Space Center, Sriharikota, Nellore District. A detailed agreement was entered into on 05.03.2005, enabling the petitioner to continue the operations for a period of four years. The petitioner states that even while the agreement is in force, respondents 1 to 3 are permitting the 4th respondent to establish his own network, parallel to the one established by the petitioner. The petitioner claims that though it initiated steps for referring the matter for arbitration in terms of Clause (10) of the agreement, no action has been taken by the concerned officer, and in the meanwhile, the 4th respondent is proceeding with the work. It seeks appropriate directions in this regard.

Heard the learned counsel for the petitioner and the learned counsel for respondents 1 and 2.

Admittedly, the agreement, dated 05.03.2005, contains an arbitration Clause. In the event of any dispute between the petitioner and the 3rd respondent, both of

them are required to approach the first respondent for nominating an arbitrator. The petitioner states that such an application has been filed on 25.10.2005.

It is not as if the petitioner is without any remedy. In case there is any inaction or default on the part of respondents 1 and 3, it can institute proceedings under the provisions of the Arbitration and Conciliation Act, 1996 (for short 'the Act'). Section 11 of the Act provides for appointment of arbitrators in the circumstances stipulated therein. Inasmuch as the petitioner had already initiated steps for appointment of arbitrator, and the same has not fructified, it can certainly invoke the jurisdiction of the concerned Court under Section 11 of the Act. Further, the petitioner can also seek appropriate interim orders under Section 9 of the Act. Therefore, this Court is not inclined to grant any relief to the petitioner at this stage.

Accordingly, the Writ Petition is disposed of, leaving it open to the petitioner to avail the remedies under the relevant provisions of the Act, before the appropriate Forum. There shall be no order as to costs.

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13.12.2005

Note: Issue C.C. by tomorrow.

(B/o)

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